

**UNITED STATES DISTRICT COURT
IN THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

**JAVIER OCHOA CANALES,
Petitioner,**

v.

**RICK THALER, Director, TDCJ-CID,
Respondent.**

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Case No.: 00-cv-396

**ORDER DENYING PETITIONER'S MOTION TO
ALTER OR AMEND THE JUDGMENT AND MOTION
FOR RELIEF FROM JUDGMENT**

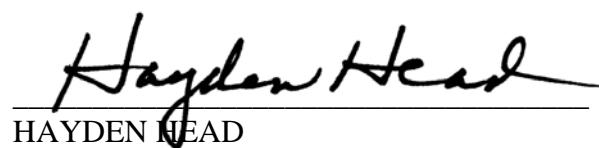
Pending before the Court are Petitioner's motion to alter or amend the judgment (D.E. 100, 101) and Petitioner's fifth motion for relief from judgment (D.E. 106). All requested relief is DENIED.

On May 7, 2012, United States Magistrate Judge B. Janice Ellington filed a Memorandum and Recommendation, recommending Petitioner's motion to alter or amend the judgment (D.E. 100, 101) be denied. (D.E. 103). Judge Ellington also recommended that any request for a certificate of appealability be denied. (D.E. 103). Petitioner filed an objection on August 22, 2012. (D.E. 105). Having reviewed *de novo* the Memorandum and Recommendation and the pleadings on file, this Court hereby adopts as its own the findings and conclusions of the Magistrate Judge. Accordingly, Petitioner's motion to alter or amend the judgment (D.E. 100, 101) is denied. Any request for a certificate of appealability is denied.

On January 11, 2013, Petitioner filed a fifth motion for relief from judgment. (D.E. 106). Petitioner's original habeas corpus petition and his subsequent motions for relief from judgment

have been denied. (D.E. 36, 37, 42, 43, 51, 59, 69, 71, 76, 95, 96, 99). Petitioner's third and fourth motions for relief from judgment were denied as second or successive habeas corpus petitions. (D.E. 71, 96). Petitioner's pending fifth motion for relief from judgment mirrors his third and fourth unsuccessful motions for relief from judgment. (D.E. 106). Petitioner has not shown proper authorization to file a further second or successive habeas application. *See* 28 U.S.C. § 2244(b). In fact, the Fifth Circuit previously noted Petitioner's numerous habeas pleadings related to the same conviction and warned that "filing additional meritless items challenging his 1994 conviction could result [] in the imposition of sanctions which could include, but are not limited to, monetary sanctions and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction." (D.E. 91). Accordingly, Petitioner's fifth motion for relief from judgment (D.E. 106) is denied. Petitioner shall not file another motion for relief from judgment without the permission of the Chief Judge of the Fifth Circuit.

ORDERED this 28th day of February, 2013.



HAYDEN HEAD
SENIOR UNITED STATES DISTRICT JUDGE